

(2) "INVESTMENT" DOES NOT INCLUDE ANY PAYMENT FOR RENT EARNED, GOODS SOLD AND DELIVERED, OR SERVICES PERFORMED BEFORE THE PAYMENT IS MADE.

(B) INVESTMENTS PERMITTED.

NOTWITHSTANDING THE PROVISIONS OF TITLE 5, SUBTITLE 4 OF THIS ARTICLE OR OF ANY OTHER LAW, A BANKING INSTITUTION MAY INVEST IN A BANK SERVICE CORPORATION IF:

(1) THE TOTAL INVESTMENT IN THE CORPORATION BY EACH BANK DOES NOT EXCEED 10 PERCENT OF THE BANK'S UNIMPAIRED CAPITAL AND SURPLUS; AND

(2) EXCEPT AS PROVIDED IN § 12-104 OF THIS SUBTITLE, THE CAPITAL STOCK OF THE CORPORATION WILL BE OWNED AT LEAST IN PART BY TWO OR MORE BANKS.

REVISOR'S NOTE: This section is new language derived without substantive change from the last clause of the second paragraph of Art. 11, § 62A(a), the third paragraph of Art. 11, § 62A(a), and the first paragraph of Art. 11, § 62A(b).

In subsection (b) of this section, the present reference to a provision of law "exclusively relating to banks" is deleted as unnecessary and potentially misleading. The reference apparently was intended simply to identify the type of law in which limitations or prohibitions on affiliates are found, such as Title 5, Subtitle 4 of this article; however, it also misleadingly implies that a limitation or prohibition in some law not dealing "exclusively" with banks would supersede this section. Deletion of this reference avoids this implication.

In subsection (b) (1) of this section, the present term "paid-in" is deleted as unnecessarily limiting. Note that, as to a savings bank, the reference to "its unimpaired capital and surplus" presumably is intended to refer to its guaranty fund; see Title 4, Subtitle 3 of this article.

As to subsection (b) (2) of this section, the second paragraph of present Art. 11, § 62A(a) refers to "two or more banks, each of which owns a part of the capital stock of such corporations {sic}". Subsection (b) (2) of this section is revised to state expressly that at least a part — but not all — of the capital stock need be owned by these banks. This revision is supported by an interpretive ruling of the Comptroller of the Currency as to the investment of national banking associations in bank service corporations under the comparable federal law. That ruling provides, in pertinent part: "... Nothing in the